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SUBJECT: THAI POLICE INCREASE IP ENFORCEMENT BUT PIRATED GOODS
STILL WIDELY AVAILABLE

¶1. (SBU) Summary: Six months after Thailand's elevation to the Special 301 Priority Watch List for IPR violations, local representatives of intellectual property rights holders say police have stepped up enforcement of copyright and trademark laws, but fear that commitment to greater enforcement does not run deep. Courts and other RTG offices have shown little improvement. Higher numbers of raids and seized goods are raising costs for pirates, but pirated products continue to be widely available, and there has been no improvement in rights holders' bottom lines. End Summary.

¶2. (SBU) The Embassy convened a meeting of local representatives of copyright and trademark holders to gauge progress on IP enforcement six months after Thailand's elevation to the Special 301 Priority Watch List, and in anticipation of an upcoming digital videoconference between USG and RTG officials on IP protection. In attendance were representatives from music and movie distributors, and law firms that represent many major trademark holders.

¶3. (SBU) Rights holders said police had made substantial improvements in enforcement against copyright and trademark piracy in 2007. Full credit was given to Police Major General Visut Vanichbut, Commander of the Economic and Technological Crime Suppression Division of the Royal Thai Police. Visut has been an enthusiastic leader in suppression of piracy since being named Commander in February 2007, using a handpicked team to minimize the influence of corruption. The Motion Picture Association (MPA) representative reported that thanks to police support, MPA is now organizing over 200 raids on pirate retailers and producers per month, double its previous average in 2006. Rightholders remain concerned that Visut's enthusiasm may not be shared by other officials, and that when he steps down, which could be by the end of the year, there could be a return to former levels of enforcement. Police are for the first time undertaking ex officio raids and not awaiting rights holder complaints before taking action. Police are also allowing rights holders to seize more product in raids, and MPA says overall seizures of optical discs are up 163 percent over last year. Police have at times creatively used censorship and pornography laws to make seizures. The police are also focusing more on seizing DVD burners, which are an increasing source of pirated product.

¶4. (SBU) Thai Customs, long the bright light in IP enforcement, still gets high marks for cooperation with rights holders and willingness to do ex officio searches. Although customs officials focus primarily on inbound shipments, they have cooperated with rights holders on inspecting outbound shipments when information was available. Officials are still without legal authority to inspect transshipments, but an amendment to the Customs Act is in the works to remedy the legal shortcoming.

¶5. (SBU) Rights holders were disappointed in the performance of the

courts, who continue to hand down non-deterrant sentences. By MPA's count, out of over 2000 cases presented to the IP court this year, only 17 defendants were given jail sentences of between 15 days to one month. In other cases the court has issued a guilty verdict but handed down a warning rather than a sentence. However, the number of jail sentences is an improvement over past years, albeit small. Rights holders and police are still finding it difficult to obtain search warrants from courts. One legal representative told Econoff the courts have blacklisted certain police officers they suspect of using warrants to shake down pirate retailers. However, these are often the only police officials to whom the rights holders can turn to organize raids.

¶6. (SBU) Rights holders describe the Department of Intellectual Property (DIP) as mostly feckless. Without a strong enforcement role, the Department has been unable to influence enforcement officials to tackle the most notable retail establishments or crack down on optical disc (OD) plants. In their role of inspecting OD plants, DIP has been reluctant to use their legal powers to run surprise inspections. Inspections typically have been announced in advance and often include high-level officials for press opportunities. DIP has also not been able to push through important legislation, such as amendments to the Copyright Act which have languished for years. One DVD distributor said DIP had been hesitant to cooperate on some public outreach initiatives saying they had to wait until after the December elections.

Enforcement Not Leading to Higher Legitimate Profits

¶7. (SBU) Despite improved police effort, rights holders report no change in the number of street stalls and retail establishments selling pirated goods. First run movies are still available in pirated form immediately after release in theatres. Police have

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periodic success cleaning out another high piracy area, Klong Tom mall, when pressure is brought to bear, but sales of pirated goods bounce back with disappointing resilience. "Red zones" such as Pantip Plaza, MBK mall, Patpong Road and Sukhumvit Road remain areas where pirated goods are easily purchased. Rights holders say the stepped up police enforcement has at least raised the cost of doing business for pirate retailers.

¶8. (SBU) Sales of legitimate product remain flat. Although the movie industry says they saw some boost in sales, partly as a result of a better crop of releases in 2007, it was less than expected and little of the boost could be attributed to improved IP enforcement. The music industry reported declining sales, though the industry representative admitted that a lagging economy was a prime reason, affecting even the sales of pirated music. Increased use of illegal downloading of music is hitting industry's pocketbooks. The movie industry is also concerned about internet piracy but with relatively low broadband penetration in Thailand the industry believes the impact from illegal downloading is as yet not large.

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